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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE 1509th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 March 2002, at 3 p.m.

Chairman: Mr. YUTZIS
(Vice-Chairman)

later: Mr. DIACONU
(Chairman)

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Mr. Yutzis, Vice-Chairman, took the Chair.

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Eleventh, twelfth and thirteenth periodic reports of Belgium (CERD/C/381/Add.1; HRI/CORE/1/Add.1/Rev.1, additional information without a symbol, circulated in the meeting room, in French only)

1. At the invitation of the Chairman, the members of the delegation of Belgium took places at the Committee table.

2. Mr. NOIRFALISSE (Belgium) underscored his country's commitment to the promotion and protection of human rights and its support for human rights mechanisms at the European and international levels. The recommendations issued by the Committee were extremely valuable, and were taken into consideration by the Government of Belgium whenever possible. The Government had done everything it could to ensure the success of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, in particular because of the role it had at the time played at the presidency of the European Union. The Conference had been difficult, yet productive, as it had concluded with the adoption of the Durban Declaration and Programme of Action, which would prove a precious asset in the fight against marginalization, poverty, discrimination and terror.

3. It was necessary to involve all components of the State as well as civil society in the struggle against racism. In that connection, he introduced the members of his delegation, who represented not only the federal Government but also the various regional and community constituents, and acknowledged the important contribution made by non-governmental organizations (NGOs), some of which had sent representatives to attend the presentation of the report.

4. Turning to the legal measures taken since the Committee had last considered a report by Belgium, he pointed out that the State party had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1999 and that the Government was in the process of ratifying the two optional protocols additional to the Convention on the Rights of the Child and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO). In 2000 it had made the declaration under article 14 of the Convention, and had given the Centre for Equal Opportunity and Action to Combat Racism the power to hear complaints in that regard. It had in November 2000 adopted an Act on Computerized Crime, with special reference to the Internet, and had followed the Committee's recommendations in taking action against anti-democratic political parties. Laws were currently being drawn up to govern the financing of such parties and to redefine the role of the Council of State in supervising their actions. A bill was being drafted to strengthen the 1981 Act to suppress certain acts based on racism or xenophobia and the 1995 Act concerning the suppression of revisionism. Belgian legislation recognized the universal competence of judges

to hear cases involving serious violations of international humanitarian law and genocide, and certain cases had already been brought before the courts. That mechanism was a very important tool in combating the worst forms of racism.

5. In November 2000, the Government had adopted a law establishing more severe sentences for human trafficking. Another law, adopted in January 2001, improved conditions for asylum-seekers in processing centres, encouraged local initiatives in support of such persons and provided penalties for persons taking advantage of the vulnerability of foreigners as they sought accommodation. Regulations relating to foreigners had been eased to permit them to vote in local elections and to gain citizenship with less difficulty. Foreigners with official papers, those from the European Economic Area (EEA) and those who had resided in Belgium for at least five years were exempt from the requirement to have a work permit. The principle of non-discrimination had been introduced into collective agreements, and a number of positive initiatives had been taken to provide employment to foreigners and vulnerable groups. The Government had taken steps to ensure that its policy concerning the right to marry was in line with international treaties, and that the Muslim religion would be dealt with on an equal footing with other religions and secularism.

6. Since the meeting of the European Council in Tampere in 1999, the Government had undertaken to improve the living conditions of asylum-seekers and to accelerate consideration of new applications. There was a large number of economic migrants among the asylum-seekers. The Government had made great strides in dealing with the backlog of cases, including those of foreigners without official papers, and had paid special attention to the plight of unaccompanied minor asylum-seekers. A special status had been established for Yugoslav citizens from Kosovo.

7. Measures had been taken to increase awareness of human rights and to prevent racism and racial discrimination, in particular in the army, the justice system and the Ministry of Employment and Labour, as well as for the general public, for example through the media, educational establishments and youth, local and cultural activities.

8. Ms. DEGROOTE (Belgium) presented recent developments in the Flemish community, which had a strategic plan of assistance for ethnic minorities, including nomads, immigrants, refugees and foreigners without papers. The plan's main objectives were to allow permanently established groups to take part more completely in society, to provide welcoming structures for newcomers and to offer social assistance, in particular in the fields of education and health. The political structure of the Flemish community included a ministry in charge of coordinating immigration policy and an interdepartmental coordinating commission. A decree issued in 1998 on policy concerning ethnic minorities furnished a legislative framework, set out the immigration policy of the Flemish community, named the organizations responsible for implementing that policy and identified target groups. It also ensured communication with the latter, in particular by establishing a forum of ethnic organizations, which should become the main partner in dialogue for the Flemish authorities. The Flemish community had provided some 8 million euros in subsidies to support the forum and related NGO activities.

9. The main thrust of the immigration policy was changing. Where it had previously been based on support for minorities, in the future it would concentrate on the principles of equal opportunities and the promotion of multiculturalism. The public education policy had

concentrated on eliminating educational backwardness among some 35,000 foreign schoolchildren. About half all primary schools and 1 in 10 secondary schools were currently taking part in an interculturalization programme.

10. Minors without official papers were able to attend school. A new decree was being drawn up to ensure equality of opportunity in education and the right to choose one's school freely. In addition to the measures taken by the authorities of the Flemish community, local governments had taken steps such as public awareness programmes. The federal, regional and community authorities were currently holding consultations to draft a coherent, unified policy to deal with unaccompanied minors, hundreds of whom lived in the Flemish community. The Ministry of the Flemish Community had adopted a procedure to deal with racist e-mails and Internet usage.

11. Mr. VAN DE VOORDE (Belgium) said that in the administration of labour questions in the Flemish community, the accent had been placed on using best practices in public services and on providing incentives for private enterprise to adopt techniques of diversity management. The Flemish administration and the Flemish social partners had concluded an agreement in 1988 on the employment of immigrants, and significant results were beginning to be seen. Every year a concrete plan of action had been implemented with specific aims, and 2.75 million euros in budget resources had been devoted to achieving such objectives. By September 2000, some 270 enterprises and public services in 30 communities had adopted positive plans of action for immigrants, resulting in about 2,500 long-term job placements. Since August 2000, 1,750 courses in the Dutch language and vocational subjects had been provided to newly arrived asylum-seekers and refugees, and another 1,800 were scheduled for the end of 2002.

12. Mr. VILLAN (Belgium) said that in the Walloon region, the main principles underpinning the treatment of foreigners were set out in a decree adopted in 1997. Its aim was to establish a coherent policy for the integration of foreigners, to promote equality of opportunity and to ensure that Walloon society respected cultural diversity and ensured harmonious coexistence. The region financed a number of services for foreigners and people of foreign origin, including regional integration centres in the main cities, the objective of which was to develop integration activities, promote the training of foreigners, disseminate information to foster integration and provide general support for foreigners and a place for cultural exchange. Each centre was administered by a group composed of both public officials and representatives of NGOs, and also included a representative council which had a say in formulating integration policies. Local integration programmes placed emphasis on partnership and beneficiary participation in both implementation and evaluation. In 2001, some 200 projects involving NGOs had been implemented. The objectives of such integration efforts included reducing school drop-out rates, support for religious structures and vocational integration of migrants. Support was also provided for social integration and immigrant youth projects, including vacation work schemes and activities aimed at encouraging civic behaviour and solidarity.

13. In 2000, the regional, community and federal authorities had held a forum on a Council of Europe report, "Diversity and cohesion: New challenges for the integration of immigrants and minorities." They had debated the report's findings and had agreed to publicize it. An annual report of the Walloon authorities was presented to the Walloon parliament on the subject of integration.

14. Mr. NAYER (Belgium) said that the French community of Belgium had in recent years adopted three decrees on education, relating inter alia to equality of opportunity, language policy and religious instruction. The Ministry of Education of the French Community subsidized a number of associations, which carried out activities promoting multiculturalism, good citizenship and tolerance.

15. Mr. DIACONU (Country Rapporteur) thanked the Belgian delegation for the updated information and data which it had provided in its oral introduction. The report showed that there had been considerable changes since the consideration of Belgium's previous report. Belgium had signed a number of international human rights documents and had made the declaration under article 14 of the Convention on individual complaints. He also noted activities to combat racism in the army and among criminal justice officials and the circular restricting information given to the press regarding the ethnic origin and nationality of persons implicated in criminal proceedings.

16. After briefly reviewing Belgium's unique political structures, he said that the only demographic data available to the Committee were those contained in the core document of 1994 (HRI/CORE/1/Add.1/Rev.1). Could the delegation provide more recent statistics? Who were the travellers to whom reference had been made in the oral introduction? Were they Roma? How many foreigners and immigrants lived in Belgium, and what were their countries of origin?

17. According to the report, a judge could decide whether a provision of the Convention was directly applicable and thus took precedence over national legislation. Had such a decision ever been taken or domestic legislation passed to ensure the implementation of the Convention? It was still unclear whether that instrument was directly applicable. What had become of the bill for a comprehensive law on racial discrimination submitted by Senator Mahoux?

18. With regard to the implementation of article 2 of the Convention, the report provided information on the French Community Commission and the Brussels-Capital Region (paras. 33 to 37), but said nothing about the Flemish Community or the other regions. Article 4, on the other hand, began with the Flemish Community and amendments to the Aliens Act, which concerned federal-level legislation. The report then returned to the communities and the regions to discuss economic, social and cultural rights. All the questions considered under the implementation of article 4 of the Convention actually belonged under article 5 of the Convention, which went unmentioned in the report.

19. There was no reference to article 3 of the Convention. The report described measures taken by the French Community to promote the coexistence of various local communities. What were the authorities doing to prevent a trend towards segregation, especially in the cities? The Council of Europe's European Commission against Racism and Intolerance had expressed concern about the exploitation in Belgium of racism for political ends, racist and xenophobic speeches by right-wing extremist parties and the considerable success of parties which relied on racist propaganda and targeted immigrants, refugees and asylum-seekers. The authorities must reject such language and fight the perception that immigrants and refugees were the cause of all social problems.

20. Turning to article 4 of the Convention, he noted that article 150 of the Constitution had been amended in 1999 and that racist and xenophobic offences against the legislation on the press were being dealt with by the correctional courts (paras. 13-18). How many cases had been brought before the correctional courts in that respect? What decisions had been taken? The report failed to contain any information on cases involving acts to incite racial discrimination and racially motivated acts of violence. Had there been any such cases, and, if so, what verdicts had been reached? A number of sources had spoken of allegations of such acts committed against immigrants, complaints lodged by youths of Northern African origin and difficulties in proving that acts of violence were racially motivated. He referred in particular to the cases of Semura Adamu, a Nigerian, and Xhendet Ferri, an Albanian, who had both died in detention, as well as other incidents cited by Amnesty International. How many such cases had been brought to the attention of the authorities, and how had they been dealt with?

21. There had been an increase in the number of racist and xenophobic reactions in the wake of 11 September, although less so than in other Western European countries. The European Observatory of Racist and Xenophobic Phenomena had reported verbal abuse of Muslim pupils, which was said to be associated with the events of 11 September. Why had schools failed to make it clear that those children could not possibly be held responsible for what had happened thousands of miles away? What was the role of teachers in ensuring intercultural education, tolerance and understanding?

22. Verbal abuse portraying immigrants as criminals and people unwilling to work had been disseminated on the Internet. In one live television broadcast, violent language had been employed against a Moroccan, establishing a direct link between the presence in Belgium of Muslims and the events in Afghanistan. Police officers had been involved in cases of verbal abuse, and the Turnhout mosque in the province of Antwerp had been the target of an attack. Positive developments included the platform launched by the Centre for Equal Opportunity and Action to Combat Racism after 11 September to combat racism, public opinion campaigns and the commitment signed on 4 October by the heads of all political parties, apart from the Vlaams Blok, not to confuse terrorists with certain nationals and to avoid simplistic attitudes in the media and in schools. Non-governmental organizations (NGOs) had reported that while legislative provisions existed for prosecuting perpetrators of racial discrimination, they were not implemented. There was only one prosecutor specialized in such questions for all of Brussels, and cases went on indefinitely. How was the Government addressing that situation?

23. The Act of 10 April 1995, which would not enter into force until a Royal Decree was issued, provided that the sole proposed penalties to be imposed on political parties which committed xenophobic or racist acts were of a financial nature, i.e. reducing or withdrawing their allocations. That was a far cry from the requirements under article 4 (b) of the Convention. Moreover, the agreement between the Postal Service and the Centre for Equal Opportunity and Action to Combat Racism on the prohibition of certain printed texts issued by political parties allowed the Postal Service to block the delivery of material from political parties of manifestly racist content, but did not require it to do so.

24. Belgium had formulated a reservation on article 4 when it had ratified the Convention in 1975. But since then, the situation had changed. International human rights organizations, the Committee on the Elimination of all Forms of Racial Discrimination and the Human Rights

Committee had stated that measures taken against racist utterances and acts and against organizations which promoted or incited racial discrimination were compatible with freedom of expression and association. Belgium's neighbours had already adopted such legislative provisions. Given the reports of activities by racist political parties and groups, how did Belgium intend to proceed in the future?

25. Turning to the implementation of article 5 of the Convention, he said that the Human Rights Committee had referred to the need to review the procedure for the forced expulsion or detention of asylum-seekers. He welcomed the measures granting refugees the right to emergency medical assistance and the possibility of appeal offered to refugees and others. According to paragraphs 88 and 89, some categories of aliens could be prohibited from temporary or permanent residence in certain communes in the Brussels region. What categories of foreigners were concerned by that prohibition? What were the criteria for singling them out? Why were not all foreigners affected? He referred in that context to article 5 (d) (i) of the Convention, which guaranteed the right to freedom of movement and residence.

26. He asked the delegation for further statistics on the number of persons who had acquired Belgian nationality between 1990 and 2000. How many were non-Europeans? According to a number of reports, such procedures sometimes led to the break-up of families. Did naturalization procedures take family ties into consideration? The election of a body to represent the Muslim community in Belgium was an important step forward. Could the delegation say whether relations with the authorities had been useful in dealing with the problems of that community?

27. Reports of the International Labour Organization (ILO) based on data from Belgian bodies referred to discrimination in hiring, affecting in particular young people of Moroccan origin. The Centre for Equal Opportunity and Action to Combat Racism had drawn attention, in its report of 2000, to discrimination against non-Belgians in certain sectors of the civil service, and an ILO study identified discrimination against immigrants in the private sector. Despite legislation prohibiting discrimination in hiring, allegations were difficult to prove. The Islamic Council had complained that women and girls who wore headscarves or other traditional dress were the targets of discrimination in recruitment and when enrolling in school. Such discrimination was frankly admitted in Flanders (para. 139 of the report); could the delegation supply information on the situation in Wallonia?

28. There were a number of inconsistencies in the description of measures taken in Belgium's two main regions. In Flanders, a decree of 1998 referred to three target groups - immigrants, refugees and travelling people - as ethnic and cultural minorities (para. 146), and a survey focused on the Italian, Spanish, Turkish and Moroccan communities (para. 155); nothing was said about Wallonia. Were travelling people considered a minority in Wallonia too? Could the delegation provide more data on the economic and social situation of minorities in both regions? What did the federal Government do if one of the regions did not take the measures required?

29. The sole reference in the report to the right to education concerned Flanders (para. 138) and related to a positive discrimination measure for immigrants. Had such measures also been applied in Wallonia? The only mention of Wallonia had to do with schooling for children

illegally residing there (para. 199). Did Flanders also have such a provision? In paragraph 15 of its concluding observations (E/C.12/1/Add.54), the Committee on Economic, Social and Cultural Rights had expressed concern that Belgium had not established adequate mechanisms to ensure uniformity in the application of educational standards in all regions and that the information provided on the implementation of the right to education in the different regions was uneven.

30. Turning to implementation of article 6 of the Convention, he asked for data on legal proceedings instituted in response to complaints of racism or xenophobia for the years 1998-2000. What was the reason for the increase in such complaints? With regard to implementation of article 7 of the Convention, the information provided concerned Wallonia. He noted that the Walloon region offered classes in the language and culture of origin of children from a number of countries (para. 202). That augured well for future inter-ethnic relations. Did the Flemish region have a similar programme? Greater efforts must be made to combat ill-treatment of immigrants and foreigners by the police and other law-enforcement personnel. A study in 2001 of the Permanent Committee to Monitor the Services of the Police had cited the problem, as had a number of NGOs. The treatment of foreigners at the Brussels Airport had also been criticized.

31. Mr. VALENCIA RODGRIGUEZ said that the Committee was pleased that the Community Commission was working to promote the social integration of persons in problem-ridden areas (para. 35 of the report). He sought further information on the "social multiplier effect" of such persons and what the reaction had been of the target groups.

32. Regarding the implementation of article 4 of the Convention, the Committee welcomed the amendment to article 150 of the Constitution (para. 13) and the agreement between the Postal Service and the Centre for Equal Opportunity and Action to Combat Racism on blocking racist propaganda material. Although not always effective, the withdrawal of allocations from political parties which demonstrated their hostility towards the rights guaranteed by the European Convention on Human Rights was a concrete step towards punishing parties which openly spread racist or xenophobic propaganda.

33. Belgium had passed legislative measures introducing greater flexibility with regard to the immigration and residence of asylum-seekers, refugees and illegal foreigners. The Committee hoped that such measures benefited all foreigners and were free of discriminatory criteria based on race, or ethnic or national origin. He sought further information on assistance to illegal aliens and rejected asylum-seekers (para. 74) and hoped that the elimination of assimilated refugee status (para. 76) would not lead to distinctions being made on the basis of race, or ethnic or national origin. The Committee would like further information on the types of work which aliens detained or held in custody or in a closed centre (para. 85) were allowed to perform and what the working conditions were.

34. He asked for clarification regarding the scope of article 18 bis of the Act of 15 December 1980 (paras. 88-89), because when it spoke of "some categories of aliens", it opened the possibility of prohibiting temporary or permanent residence on the basis of racial or ethnic differences, which would be in clear violation of the Convention. Concerning housing for the various ethnic communities in Flanders, paragraphs 152 and 153 explained that housing policy also covered foreigners. Were illegal immigrants included in those programmes pending

legalization of their status? As to implementation of article 6 of the Convention, he said that measures needed to be taken to deal with the increase in the number of complaints and prosecutions. The use of mediation appeared to have produced good results.

35. Mr. de GOUTTES welcomed the statement by the delegation on Belgium's cooperation with NGOs. He regretted that the thirteenth periodic report had not contained comprehensive updated information on the ethnic make-up of the population. On the other hand, it had responded to many of the concerns expressed and recommendations made by the Committee during consideration of the previous report in 1997. In particular, he welcomed the declaration made under article 14 of the Convention and the new legislation for prosecuting racist publications in the press. Might not the correctional courts be empowered to hear all press-related offences?

36. With regard to the new legislation on financial penalties imposed on political parties which spread racist or xenophobic propaganda, he asked the delegation what the prospects were for the issuance of the Royal Decree required to give it effect. He also inquired whether any action had been taken against the Vlaams Blok, which, according to the Committee's information, continued to receive State subsidies. The agreement between the Postal Service and the Centre for Equal Opportunity and Action to Combat Racism, which he welcomed, would no doubt be difficult to implement, and he asked the delegation to provide additional details.

37. He asked whether there was any likelihood of article 18 bis of the Act of 15 December 1980 being amended or repealed, as recommended by the Committee following consideration of Belgium's previous periodic report. Could the delegation provide more up-to-date information on judicial action taken in relation to complaints of racial discrimination, as paragraphs 183-5 of the report referred exclusively to cases dating from the period 1995-1997.

38. There were various forms of hidden racial discrimination which hampered many people in their daily lives and yet were very difficult to prove. Had there been any developments in Belgium with respect to European Union Council Directive 2000/43/EC of 29 June 2000, which placed the burden of proof on the defendant and was applicable exclusively in civil law. Had any means been devised for establishing proof of such behaviour in criminal law? With regard to penalties, had the Public Prosecutor's department been instructed to be particularly vigilant about related complaints and had the possibility of resorting to mediation been considered?

39. Mr. AMIR thanked the delegation for having submitted an additional document entitled Belgique - un état fédéral, which shed some light on the legal implications of Belgium's federal system. It would, however, have been useful if some of the information contained in the document had been incorporated in the report proper. In that connection, he asked whether international treaties took precedence over domestic law in Belgium, irrespective of its federal system. For instance, as far as refugees were concerned, in the light of the Schengen Agreement, could the provisions of the Convention relating to the Status of Refugees be invoked in domestic courts? Also, could students who were resident in one European Union member State travel to another without a visa? It had been observed that foreigners residing in the Schengen area who wished to travel to another country subject to the Schengen Agreement were obliged to obtain a visa.

40. Mr. TANG Chengyuan, referring to information in the report concerning judicial action with respect to complaints of racial discrimination (paras. 183 et seq.), observed the very high number of complaints received in 1995 (1,086) by the Centre for Equal Opportunity and Action to Combat Racism. However the information provided in those paragraphs related to the period 1995-1997 only; he hoped that more up-to-date statistics would be furnished in the next periodic report. Judicial action alone would not suffice as racial prejudices persisted. Information campaigns in schools and the press and media and on the part of politicians were also required. Was any compensation awarded to the victims of racial discrimination? Could the delegation provide examples of the type of physical violence involved in the cases referred to in the report? He sought clarification regarding allegations of police brutality and the existence of relevant disciplinary measures.

41. Under the Act of 15 July 1996, social welfare services were available to refugees in open reception centres; under the Royal Decree of 12 December 1996 access to emergency medical care was also guaranteed. Were such provisions equally applicable to illegal immigrants, some of whom were held in temporary detention? What steps were taken to protect their basic human rights?

42. Mr. KJAERUM said that in dealings with aliens who had committed offences, it was difficult to strike a balance between protecting the basic human rights of such offenders on the one hand, and the interests of State security on the other hand. He sought further information on legislation relating to the expulsion of alien offenders, in particular with respect to grounds applied in such cases. Was it not discriminatory, for instance, to expel an alien who had lived most of his life in Belgium but not a Belgian citizen when they committed the same offence?

43. Referring to the Centre for Equal Opportunity and Action to Combat Racism mentioned in paragraph 185 of the report, he observed an increase in the number of complaints of racist attacks lodged between 1995 and 1997 and asked whether that trend had continued in subsequent years. In the affirmative, what was the reason for the increase? Also could the delegation provide information on the main types of complaints received?

44. Had the Belgian Government envisaged the possibility of drawing up a national action plan, targeted specifically at racism and xenophobia, as recommended by the World Conference against Racism, held in Durban in 2001, or alternatively a plan that was broader in scope, as called for by the World Conference on Human Rights, held in Vienna in 1993? Had any effort been made to disseminate the final documents of the World Conference against Racism to the public at large, civil servants and relevant State bodies? Lastly, how was information on the Convention in particular and issues relating to racism and xenophobia in general incorporated in training courses for police officers, judges and prosecutors?

45. Mr. THORNBERRY began by welcoming Belgium's acceptance of the article 14 procedure. He asked what exactly was meant by the term "press offences" used in paragraph 17 of the report? Did it cover Internet hate speech, as in the United States? Paragraph 36 of the report referred to "cross-cultural exchanges"; was that in any way akin to the Council of Europe's concept of intercultural exchange? Was Belgium party to the Council of Europe's Convention on the Participation of Foreigners in Public Life at Local Level?

46. Referring to paragraphs 117 to 119, he sought clarification regarding the use of the term "secular" in the phrase "secular leader of the Islamic faith" and the statement "loosening fundamentalist groups' hold on that community". He endorsed the Country Rapporteur's comments with respect to information provided on the different communities in Belgium under part IX of the report. Paragraph 134 was unclear: more information was required on the different communities and relevant policies and how "multicultural learning" was in fact achieved. He sought clarification regarding the term "travelling people"? Did it simply mean the Roma (an ethnic category) or did it include other people who simply opted for a life on the road? He noted the absence of the standard European term "national minorities" in the categories listed in paragraph 146 and in that connection sought clarification regarding the term "non-natives" referred to in paragraph 152. He welcomed the Ghent declaration on non-discrimination of 4 July 1997. He drew attention to the term "positive discrimination" used in paragraph 195 and asked whether it meant the same as "special measures" - the term used in the Convention.

47. Referring to paragraphs 202 et seq., he welcomed the bilateral agreements on a language and culture of origin. However, he harboured some doubts about the viability of the transitional language teaching model described, which appeared very different from the bilingual or mother-tongue language support models used in other countries of immigration. Were the wishes of the various immigrant communities taken into account in such matters?

48. Ms. JANUARY-BARDILL asked whether the exchanges and activities undertaken to ensure "coexistence", as described in paragraph 36 of the report, included human rights education. What exactly was meant by the term "personal behaviour" referred to in paragraph 77 in connection with the withdrawal of alien status? Paragraphs 120 and 121 outlined some very strict recruitment criteria. Who monitored compliance with those criteria and what sanctions were applied for non-compliance?

49. Mr. RESHETOV, referring to information provided in paragraph 20 et seq. of the report, endorsed the spirit of the legislation adopted which made political parties whose propaganda was openly racist and xenophobic liable to financial penalties. However, he was somewhat confused by the statement in paragraph 21 to the effect that a State allocation could be received only by those parties which undertook to protect the rights enshrined in the European Convention on Human Rights. It was generally acknowledged that the European Convention on Human Rights was far more restrictive than for instance the International Covenant on Civil and Political Rights and, in that respect, was open to criticism. As currently drafted, paragraph 21 could therefore lead to some absurd conclusions.

50. Mr. LINDGREN ALVES said that the impression he had gained on reading the Belgian report was that penalties for racist propaganda were solely of a financial nature. He therefore wished to know precisely what penalties applied to racist offences. He had been shocked by the allegation made by some non-governmental organizations (NGOs) that Belgium was the country where there had been the largest number of attacks on Arabs after 11 September 2001 and so he asked whether that information was correct and, if so, what measures were being adopted to punish such violations of the Convention and of human rights in general. The Committee would

also like to know more about the new law in Belgium which made it possible to prosecute anyone, even non-residents, for crimes against humanity and about actual cases which had been heard by or were pending before the courts.

51. Mr. HERNDL, reminding the delegation that the Committee, in its concluding observations on Belgium's previous report (CERD/C/304/Add.26), had advocated the State party's ratification of the amendment to article 8, paragraph 6, of the Convention, urged that it do so forthwith, for the new financial arrangements envisaged in the amendment entailed no greater financial burden for signatory States, but would facilitate the work of the Committee.

52. Mr. DIACONU said that, according to the information he had received, fewer racially motivated attacks on foreigners had occurred in Belgium after 11 September 2001 than in other western European countries and the Prime Minister had formally condemned such assaults.

53. The delegation of Belgium withdrew.

54. Mr. Diaconu took the Chair.

Draft concluding observations concerning the second and third periodic reports of Switzerland (continued) (CERD/C/60/Misc.21/Rev.1)

Paragraph 9

55. Mr. ABOUL-NASR asked if the Committee was really interested in sentiments.

56. The CHAIRMAN suggested that, in the first sentence, the word "sentiments" be replaced with "attitudes".

57. Mr. KJAERUM proposed that the first sentence should speak of "hostile attitudes against blacks, Muslims and asylum-seekers".

58. Mr. THORNBERRY proposed recasting the sentence to read "The persistence of hostile attitudes to blacks, Muslims and asylum-seekers in Switzerland is of utmost concern to the Committee".

59. Mr. ABOUL-NASR wished to include a reference to education in the recommendation proper.

60. Mr. THORNBERRY proposed the wording "including through information campaigns and the education of the general public".

61. Ms. JANUARY-BARDILL said that she would prefer the term "black people".

62. Paragraph 9, as amended, was adopted.

Paragraph 10

63. Mr. THORNBERRY said that, in the third line, the words "by the fact" were superfluous and that it would be better if the last line read "such procedures are not subject to legal challenge".

64. Mr. PILLAI said that, in the first sentence, it would be more appropriate to speak of "attitudes" rather than "feelings" and that the last part of the sentence required clarification, as it was unclear what was meant by "those".

65. The CHAIRMAN suggested that "legal review" would be more apt than "legal challenge".

66. Mr. HERNDL proposed deleting the word "deeply" in the first sentence.

67. After a discussion in which Mr. KJAERUM, the CHAIRMAN, Mr. AMIR and Mr. RESHETOV took part, Mr. THORNBERRY proposed that the second sentence of the paragraph should be worded "It is also concerned that according to legislation still in force, decisions taken in accordance with such procedures are not subject to legal review".

68. Paragraph 10, as amended, was adopted.

Paragraph 11

69. Mr. SICILIANOS pointed out that the article of the Convention to which reference should be made was 5 (e) (v) and not 5 (d).

70. After a discussion between Mr. TANG, Mr. RESHETOV and Mr. THORNBERRY, the latter proposed that the first sentence should end with the statement that "the Committee expresses concern about recent moves towards the establishment of separate classes for foreign pupils in some cantons".

71. Paragraph 11, as amended, was adopted.

Paragraph 12

72. Mr. THORNBERRY suggested deleting "until now" in the fourth line and adding the words "with regard to issues of racial discrimination" in the last sentence.

73. Mr. RESHETOV proposed deleting the word "utmost" in the third line.

74. Mr. ABOUL-NASR asked what was meant by "independent mechanisms".

75. The CHAIRMAN explained that the term referred to mechanisms independent of the police, such as the judiciary or parliamentary commissions.

76. Paragraph 12, as amended, was adopted.

Paragraph 13

77. Mr. SICILIANOS said that the paragraph in question should contain a direct and explicit reference to the Paris Principles embodied in General Assembly resolution A/RES/48/134 adopted on 20 December 1993, since they were the internationally recognized criteria for national human rights institutions.

78. Mr. RESHETOV said that, in his opinion, the first sentence of the recommendation should read "The State party is invited to strengthen the powers of the Federal Commission against Racism".

79. Mr. KJAERUM suggested that "human rights agency" should be replaced with "human rights institution".

80. Mr. SICILIANOS said that since the Commission itself had spoken of its difficulties in obtaining financial and human resources, he was in favour of retaining the word "means".

81. The CHAIRMAN proposed that the paragraph in question should be worded "The State party is invited to strengthen the powers and the means of the Federal Commission against Racism. The present consideration to set up a national human rights institution should take note of the criteria for the setting up of such institutions established in General Assembly resolution A/RES/48/134, adopted on 20 December 1993."

82. Paragraph 13, as amended, was adopted.

Paragraph 14

83. Mr. ABOUL-NASR suggested that the Committee should check with the delegation that the statement made in the paragraph was quite correct.

84. The CHAIRMAN said that he was sceptical whether replacement of the three circle immigration policy by a binary system would cause Switzerland to withdraw its reservation to the article in question.

85. Mr. de GOUTTES expressed the view that the wording of the paragraph was too strong and suggested as an alternative "The Committee invites the State party to examine whether the reservation to article 2.1.a of the Convention is still necessary".

86. Mr. HERNDL proposed that the sentence should be recast to read "The Committee invites the State party to examine whether the reservation to article 2.1.a is still necessary or might be withdrawn".

87. Paragraph 14, as amended, was adopted.

Paragraph 15

88. Mr. RESHETOV asserted that "travellers" had several meanings.

89. Mr. TANG Chengyuan pointed out that the term "travellers" had been used in the Swiss report.

90. Mr. THORNBERRY suggested adding the words "such as Roma and Yenish" after the term "travellers".

91. Paragraph 15, as amended, was adopted.

Paragraph 16

92. Mr. THORNBERRY said that "in fields such as" would be better than "in fields like".

93. Paragraph 16, as amended, was adopted.

Paragraph 17

94. Mr. ABOUL-NASR commented that, in accordance with the Committee's practice, the notion that the declaration was optional should be incorporated in the paragraph.

95. Mr. SICILIANOS observed that a decision had been taken to include a paragraph on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in all concluding observations.

96. The CHAIRMAN confirmed that such a paragraph would henceforth be incorporated in all concluding observations and that the term "optional" would be introduced in paragraph 17. He considered that another paragraph should specify whether an updated report was required.

97. Mr. HERNDL proposed that a further paragraph be added, in which the Committee recommended ratification of the amendments to article 8, paragraph 6, of the Convention.

98. The draft concluding observations concerning the second and third periodic reports of Switzerland were adopted, subject to the addition of two paragraphs, one on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the other on the ratification of the amendments to article 8, paragraph 6, of the Convention.

The meeting rose at 6.10 p.m.